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BARTKIEWICZ, KRONICK & SHANAHAN

A PROFESSIONAL CORPORATION
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JAMES M. BOYD, JR., Of Counsel

September 16, 2009

Mr. Steven Herrera, Chief
Water Rights Permitting Section
Division of Water Rights
P.O. Box 2000
Sacramento, CA 95812-2000

Re: Statement of Diversion and Use S000602 (Hawkins Creek) for Trinity Village
Water Company in Trinity County

Dear Mr. Herrera:

I represent the Trinity Village Water Company ("Water Company"), which provides domestic water service within the Trinity Village service area in Trinity County from Hawkins Creek and the Trinity River. In an October 7, 2008 letter from you to the Company, you stated that no information has been provided to the Division of Water Rights to indicate that the Trinity Village parcels maintained their riparian water rights status at the time that they were subdivided. The purpose of this letter is to confirm to the Division that the riparian status of the Trinity Village parcels was preserved at the time they were subdivided, and that these parcels continue to be riparian, with the Water Company exercising these riparian rights on behalf of the Trinity Village parcels to provide them their sole source of domestic water supply.

The Preservation of the Riparian Status When Property is Subdivided for Development

- A. Riparian rights may be preserved in a non-riparian, subdivided parcel either by language in the instrument that conveys the parcel or by evidence of the parties' intent to preserve the riparian right in that parcel**

A riparian right attaches to land that is contiguous to a watercourse. (*Pleasant Valley Canal Co. v. Borror* (1998) 61 Cal.App.4th 742, 774.) Riparian rights can be severed when land ceases to be contiguous to the watercourse, such as through subdivision of a riparian parcel. (See *United States v. Fallbrook Pub. Util. Dist.* (1961) 193 F.Supp. 342, 347-348.) Riparian rights in a subdivided parcel will be preserved, however, if the instrument conveying the subdivided, non-contiguous parcel preserves the riparian right, or if the parties intend for the riparian right to be preserved, which can be shown by extrinsic evidence. (*Hudson v. Dailey* (1909) 156 Cal. 617, 624-625.)

In *Anaheim Union Water Company v. Fuller*, (1907) 150 Cal. 327, 328, the court held that the subdivision of land without a deed reservation of riparian rights could result in the severance of the parcels that were no longer contiguous to the riparian watercourse. Later, however, the California Supreme Court expanded on its interpretation of when riparian rights could be conveyed despite a silent instrument conveying the non-abutting parcel. In *Hudson v. Dailey*, the California Supreme Court determined that if an instrument conveying a non-contiguous parcel was silent regarding the preservation of riparian rights on that parcel, then the intent of the parties would determine whether the riparian right is preserved. The California Supreme Court stated:

A subsequent conveyance by one of the original owners, of a part of the tract not abutting upon the creek, would not carry any riparian or other right in the creek, unless the circumstances were such as to show that parties so intended, or were such as to raise an estoppel.

(*Hudson v. Dailey* (1909) 156 Cal. at p. 624 (underlining added).)

In *Murphy Slough Assoc. v. Avila* the California Court of Appeal addressed whether riparian rights of several landowners had been severed from property within a reclamation district and conveyed to the reclamation district at the time those property owners granted rights of way to the reclamation district for levee construction. The Court of Appeal analyzed the California Supreme Court's opinions in several riparian right cases, including *Anaheim Union Water Company v. Fuller* and *Hudson v. Dailey* in order to determine what was necessary to convey a riparian right. The Court of Appeal stated, in no uncertain terms, that the intent of the parties was the preeminent determinant as follows:

The overriding principle in determining the consequence of a conveyance of land insofar as riparian rights are concerned is the intention of the parties to the conveyance.

(*Murphy Slough Assoc. v. Avila* (1972) 27 Cal.App.3d 649, 657. See also *Pleasant Valley Canal Co. v. Borror* (1998) 61 Cal.App.4th 742, 780, holding that a property owner did not intend to sever the riparian rights to his irrigable acreage and therefore, the riparian rights had not been severed despite a silent deed granting a right of way that transected the property.) Extrinsic evidence is admissible to show the intent of the parties. (See *Murphy Slough Assoc. v. Avila*, *supra*, 27 Cal.App.3d at p. 655; see also *Pacific Gas & Elec. Co. v. G.W. Thomas Drayage, etc. Co.* (1968) 69 Cal.2d 33, 39-40.)

B. Riparian rights may be preserved in non-riparian, subdivided parcels by establishing a water company to serve those parcels

A water company can be formed to act as an agent of riparian proprietors for the purpose of providing water service to a parcel that is subdivided, even though individual parcels,

themselves, may not be contiguous to the watercourse. (*Quist v. Empire Water Co.* (1928) 204 Cal. 646, 651.) The water company would not have title to the water and would only act as the agent of those parcels for the purpose of distributing water to the various parcels. (*Id.*)

In *Quist v. Empire Water Company*, a land company owned a large tract of land that it desired to subdivide into several parcels, which it could then sell. (*Quist v. Empire Water Co.*, *supra*, 204 Cal. at p. 648.) The land company entered into an agreement with a water company, which stated that all lands were riparian, and which transferred the land company's interest in an irrigation company to the water company. (*Id.*) The land company conveyed all ditches, canals, weirs and rights of way to the water company and empowered the water company to act as an agent of the land company to provide the land company's tract with water, pursuant to the riparian right attached to that tract. (*Id.*) The land company subsequently subdivided the tract into several parcels and sold those parcels to individuals, specifically noting in the deeds that purchasers were receiving all water rights belonging to the parcel. (*Id.*) The California Supreme Court determined that the water company acted as an agent of the riparian parcel owners, and that, as an agent, the water company had no power to sell the water or water rights which were the subject of its agency. (*Id.* at p. 653.) (See to the same effect, *Copeland v. Fairview Land* (1913) 165 Cal. 148, 157.)

Further, a water company may be created for the convenience and economical management of a common water source to which the owners of several tracts have a right. (See *Woodside Marble & Tile Co. v. Dunsmore Canyon Water Co* (1920) 47 Cal.App. 72, 76-77; see also *Arroyo Ditch Water Co. v. Baldwin* (1909) 155 Cal. 280, 285.)

C. The best evidence to show intent to preserve a riparian water right is the totality of the circumstances surrounding the subdivision of the property

As discussed above, the relevant case law clearly provides that the intent of the parties is the preeminent factor in determining whether a riparian right is preserved in a subdivided parcel, which should be determined from the totality of the circumstances surrounding the subdivision and sale of parcels. (*Murphy Slough Assoc. v. Avila*, *supra*, 27 Cal.App.3d at p. 657 and *Hudson v. Dailey*, *supra*, 156 Cal. at p. 624; *Murphy Slough Assoc. v. Avila*, *supra*, 27 Cal.App.3d at p. 657.) In *Copeland v. Fairview Water Company*, the California Supreme Court noted, "[t]he land and the water together were very valuable; separately, the land, at least, was comparatively worthless." (*Copeland v. Fairview Land Co.* (1913) 165 Cal. 148, 157.) This provided the factual context under which the land company created the water company to serve each subdivided parcel.

The Preservation of the Riparian Status When the Trinity Village Property Was Subdivided for Development

Based upon even my cursory review of documents (some of which I have enclosed with this letter) from the time of the subdivision of the Trinity Village property and formation of the Water Company, there is ample documentation of the intent to preserve the riparian status of the

Trinity Village parcels prior to subdivision so that the Water Company could provide water service to Trinity Village. For example:

1. In 1962, prior to subdivision and development of the property, the owner of the property received a letter from the Arcata Pump Company that stated that groundwater was not available as a water supply for the property, and suggested that water from Hawkins Creek be used as the water supply for the property. (See the attached December 20, 1962 letter.)

2. In 1963, the property owners formed the Trinity River Development Company ("Development Company") for the purpose of subdividing the Trinity Village property for development. (See the attached agreement dated February 23, 1963).

3. In early 1964, the Development Company formed the Water Company. (See the attached February 14, 1964 Articles of Incorporation of the Water Company.)

4. Later in 1964, the Development Company issued a quitclaim deed conveying the riparian water rights of the Development Company to the Water Company ("Tract No. Trinity Village Subdivision in Lots 37, 38 and 39, Township 6 North, Range 6 East, Humboldt Base & Meridian"). (See the attached August 30, 1964 quitclaim deed.)

5. In 1965, the California Division of Real Estate issued its Final Subdivision Public Report approving formation of the Trinity Village subdivision, noting that easements were included in the title documents to provide for utility services, and stating: "Water will be supplied by the Trinity Village Water Company." (See the attached April 26, 1965 Final Subdivision Public Report of the California Department of Real Estate approving the Trinity Village subdivision.) Each of lots 37, 38 and 39 of the Trinity Village property, as described in the 1965 Final Subdivision Public Report, is contiguous and riparian to Hawkins Creek and the Trinity River.

6. Since its inception, the Water Company has provided water service to Trinity Village, first diverting water from Hawkins Creek, later supplemented by diversions from the Trinity River, and conveying, treating and distributing this water supply throughout the property by means of utility easements contained in the title documents for each parcel.

7. The Water Company filed statements of water diversion and use for the exercise of these riparian water rights under Statement S000602 for the years 1969, 1970, 1971 and 1972. In accordance with your October 7, 2008 letter, the Water Company expects to receive from the Division a supplemental statement beginning with the year 2010, and thereafter the Water Company will report water use to the Division as required.

As the case law outline above shows, there are several ways to preserve the riparian status of property when it is subdivided. The preeminent consideration is the intent of the parties at the time of the subdivision, which should be determined from the totality of the circumstances surrounding the subdivision and sale of parcels. It is clear from the totality of the circumstances

Mr. Steven Herrera
September 16, 2009
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surrounding the subdivision and development of Trinity Village that the property owners and the purchasers of the parcels intended that the Water Company would provide them water service from Hawkins Creek under the property's riparian water rights. All three lots of the property were contiguous to Hawkins Creek, which was the sole source of water for the property, and the property owners formed the Water Company to provide water service to the subdivision, which was confirmed by the California Division of Real Estate in its final report approving the subdivision. We conclude, therefore, that notwithstanding the subdivision of the property, the property preserved and continues to maintain its riparian status.

Please contact me if you have any questions on this matter.

Very truly yours,



PAUL M. BARTKIEWICZ

PMB:af

Copies (with enclosures):

Mr. Danny Walsh, Trinity Village Water Company
P.O. Box 210
Salyer, CA 95563-0210

Ms. Susan Wilson
Division of Water Rights
P.O. Box 2000
Sacramento, CA 95812- 2000

Mr. John McCammon
Chief Deputy Director
California Department of Fish and Game
1416 Ninth Street
Sacramento, CA 95814

Mr. Gary Stacey
Mr. Mark Stopher
California Department of Fish and Game
Northern Region
601 Locust Street
Redding, CA 96001

Mr. Steven Herrera
September 16, 2009
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Mr. William Condon
Department of Fish and Game
619 Second Street
Eureka, CA 95501

ARCATA PUMP CO.

650 TENTH STREET
ARCATA, CALIFORNIA

December 20, 1962

Dr. Jack Walsh, M.D.
519 Sixth Street
Eureka, Calif.

Dear Dr. Walsh:

Following the inspection of your property near Hawkins Bar on the Trinity river, a preliminary survey shows the following:

Near the old mill site an alluvionary deposit is evident on the surface; said formation is setting on a fairly hard rock formation as evidenced by outcropping in the river. Water could be found directly over the rock formation. As stated on the phone, several fresh water springs are present in the rock formation also, but it is doubtful that they can be tapped with a well as a certainty.

From the equipment storage shed on the north end of the mill site, to the river along the river road, serpentine and shale formation are evident and definitely do not promise any water in this location.

My personal comment would be to provide a water system with adequate storage and main lines to all the lots. As a water supply, I would be tempted to drill two or three exploratory wells (8" diameter) somewhere on the old mill site where alluvional deposit is present.

If there is no water in sufficient quantity found in these two or three wells, then an infiltration sump on the Hawkins Creek would be advisable. In this case, a storage tank, filter, booster pump and pressure pump would be needed.

A more accurate survey would be needed for cost estimate of the system.

Trusting that the above information is what you have been anticipating, we remain,

Yours very truly

A.A. Pialorsi

A.A. Pialorsi
ARCATA PUMP CO.

2-23-63
 Eddie - 30% stock
 Don - 30% "
 Mc - 30% stock
 Moore - 10%

To be issued

A G R E E M E N T

THIS AGREEMENT made Feb 23, 1963, between
 DONALD E. REIWERTS, JACK WALSH, EDWARD H. ENQUIST, JR.,
 and FRANCIS B. MATHEWS;

W I T N E S S E T H:

THAT, WHEREAS, the parties hereto have formed a corporation
 named Trinity River Development Co., which has acquired the land hereinafter
 described and which plans to develop and sub-divide said lands; and

WHEREAS, the property is that real property in the County of
 Trinity, State of California, described as follows:

Being that real property described in Book 99 Official
 Records, at Page 574, Trinity County Recorder's
 Office, document number 3636, Trinity County, California.

NOW, THEREFORE, for and in consideration of the mutual promises,
 covenants and conditions, it is hereby agreed as follows:

1. That shares of stock of corporation shall be issued 30% each to
Riewerts, Walsh and Enquist and 10% to Mathews, or their designees, for cash.
 An initial permit and issuance of \$1000.00 shall be obtained. Any future issue
 of shares shall be upon a pre-emptive basis. ~~The shares of Enquist (and the~~
~~share application and permit) shall be issued 10% thereof each to Donald E.~~
~~Riewerts, Jack Walsh, and Francis B. Mathews.~~

2. Riewerts has bought the land above described on behalf of corporation,
 free of any and all claims or liens except items 1st through 10th inclusive of
 Policy of Title of Western Title Insurance Company, No. 14268, to Donald E.
 Riewerts, dated December 13, 1961, and county taxes since said date, for the
 sum of \$29,477.78. The corporation shall issue a note for \$29,477.78 to

Riewerts secured by a deed of trust in repayment thereof.

3. Walsh agrees to lend corporation \$25,000.00 in cash to be loaned on or before May 1, 1963.

4. The monies due to Riewerts and Walsh shall be evidenced by promissory notes with 6% interest and payments 10% of principal due on June 1, 1964, and each year thereafter until paid, and each secured by a deed of trust. Neither deed of trust shall have priority over the other; in event of a foreclosure, the proceeds thereof shall be paid upon both notes in proportion to the amount due.

5. The corporation shall use the monies received from Walsh for the purpose of developing and sub-dividing the land above described. It is contemplated that the corporation shall sell or lease portions of the land from time to time; Riewerts and Walsh agree to release the lands so sold or leased from the terms of their respective deeds of trust in exchange for net proceeds of said sale or lease (said net proceeds to be applied against the balance due; the net proceeds to be divided and paid in proportion to the then balance due).

6. The corporation shall pay no salaries to the officers or directors as such. Services performed by or expenses incurred by any party to this agreement shall be paid for in such sum as the parties may from time to time agree.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first above written.

Jack Walsh 12/4
Edward W. Engquist
De Riewerts
[Signature]

APPROVED:

TRINITY RIVER DEVELOPMENT CO.

BY De Riewerts

and BY [Signature]

2-14-64

465611

(41)

FILED

In the office of the Secretary of State
of the State of California

FEB 14 1964

FRANK M. JORDAN, Secretary of State

TRINITY VILLAGE WATER CO.

ARTICLES OF INCORPORATION

[Signature]
Deputy

...vision of right
to amend articles

Yes

KNOW ALL MEN BY THESE PRESENTS:

We, the undersigned, hereby mutually agree to unite and associate ourselves together as a corporation, and for such purpose, we hereby make and adopt the following ARTICLES OF INCORPORATION:

ARTICLE I:

The name of this corporation shall be TRINITY VILLAGE WATER CO.

ARTICLE II:

The address and principal office and place for the transaction of the business of this corporation shall be at 822 G Street, Arcata, California, in the County of Humboldt.

ARTICLE III:

The primary business in which the corporation intends initially to engage is the sale and distribution of water as a public utility.

ARTICLE IV:

This corporation shall have the power to acquire by purchase or otherwise own, hold, buy, sell, convey, lease, mortgage or encumber or to contract for real estate or other property, personal or mixed, and to carry on the above businesses or any other business connected therewith, wherever the same may be permitted by law, and to the same extent as the laws of the State of California will permit, and as fully and with all powers that the laws of this State confer upon corporations and organizations under this section and to do any and all of the businesses above mentioned and set forth to the same extent as that natural persons might or could do.

1 ARTICLE V:

2 This corporation shall be managed by a board of three (3) directors
3 elected by the shareholders at the regular annual meeting, who shall hold
4 office for one (1) year until their successors are elected. The directors shall
5 elect all of the officers and appoint all agents. The regular meeting of the
6 Board of Directors shall be held immediately after the adjournment of each
7 regular meeting of shareholders. Such meetings to be held at the general
8 office of the corporation.

9
10 ARTICLE VI:

11 The names and addresses of the first members of the Board of
12 Directors are as follows:

13 DONALD E. RIEWERTS 1835 Buhne Street
Eureka, California

14 JACK WALSH 2307 S Street
Eureka, California

15 FRANCIS B. MATHEWS 2300 S Street
16 Eureka, California

17 ARTICLE VII:

18 That the corporation is authorized to issue only one (1) class of
19 shares of stock and all such shares are without par value. The total number of
20 such shares is One Thousand (1000).

21 IN WITNESS WHEREOF, we have hereunder set our hands this 31st
22 day of January, 1964.

23
24 Donald E. Riewerts
25 Donald E. Riewerts

26 Jack Walsh
27 Jack Walsh

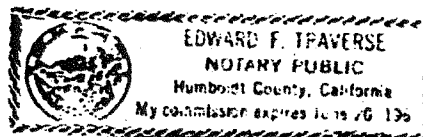
28 Francis B. Mathews
29 Francis B. Mathews

1
2
3 STATE OF CALIFORNIA
4 SS:
5 COUNTY OF HUMBOLDT

6 On this 31st day of January, 1964, before me, EDWARD F.
7 TRAVERSE, a Notary Public in and for the County of Humboldt, State of
8 California, residing therein, duly commissioned and sworn, personally
9 appeared DONALD E. RIEWERTS, JACK WALSH and FRANCIS B. MATHEWS,
10 and being known to me to be the persons whose names are subscribed to the
11 within instrument and acknowledged to me that they executed the same.

12 IN WITNESS WHEREOF, I have hereunto set my hand and affixed
13 my official seal in the County of Humboldt, the day and year first above
14 written in this certificate.

15 *Edward F. Traverse*
16 Notary Public in and for the
17 County of Humboldt, State of
18 California



QUITCLAIM DEED

112 278

TRINITY RIVER DEVELOPMENT CO., a California corporation, does hereby grant to TRINITY VILLAGE WATER CO., a California corporation, the riparian rights of Trinity River Development Co. in and to all of those certain lots, pieces and parcels of land situate, lying and being in the County of Trinity, State of California and included on that certain map of plat entitled: "Tract No. Trinity Village Subdivision in Lots 37, 38 and 39, Township 6 North, Range 6 East, Humboldt Base & Meridian, April, 1964" recorded May 18, 1964 in Book 3 of Maps and Surveys at Page 165 through 172 inclusive, Trinity County Records, and the right to construct and maintain a water pipeline upon and across Lot A of Block P and Lot 2 of Block P and Lots 12 and 13 of Block E, and Lot 10 of Block H and Lot 25 of Block E as said lots and blocks are shown on that certain map of plat entitled: "Tract No. Trinity Village Subdivision in Lots 37, 38 and 39, Township 6 North, Range 6 East, Humboldt Base & Meridian, April 1964" recorded May 18, 1964 in Book 3 of Maps and Surveys at Page 165 through 172 inclusive, Trinity County Records.

Dated: August 30, 1964.

TRINITY RIVER DEVELOPMENT CO.,
a California corporation

BY: De Riewerts

STATE OF CALIFORNIA
SS:
COUNTY OF HUMBOLDT

On this 30th day of August, 1964, before me Edward F. Traverse a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared DONALD E. RIEWERTS known to me to be the President of the corporation described in and that executed the within instrument on behalf of the corporation therein named, and he acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this Certificate first above written.

RECORDED AT REQUEST OF

Mathews & Traverse

12 MIN. PAST 10 A.M.

APR 12 1965

TRINITY COUNTY RECORDS

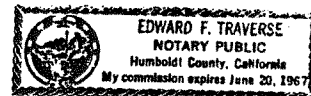
Mason Kuching

nj RECORDER

FF.E.2. J. J. J.

538

Edward F. Traverse
Notary Public in and for the said
County and State



MATHEWS & TRAVERSE
ATTORNEYS AT LAW
SUITE 200
PROFESSIONAL BLDG.
EUREKA, CALIFORNIA

(15)
4-26-65

BEFORE THE BUSINESS AND COMMERCE AGENCY
DEPARTMENT OF INVESTMENT
DIVISION OF REAL ESTATE
OF THE
STATE OF CALIFORNIA
MILTON G. GORDON, Real Estate Commissioner

In the matter of the application of
TRINITY RIVER DEVELOPMENT COMPANY
A Corporation
DONALD E. RIEWERTS, President

FINAL SUBDIVISION
PUBLIC REPORT

FILE NO. 6939 SAC

for a final subdivision public report on
TRACT NO. TRINITY VILLAGE SUBDIVISION
TRINITY COUNTY, CALIFORNIA

**This Report Is Not a Recommendation or Endorsement of the Subdivision
But Is Informative Only.**

Buyer or Lessee Must Sign That He Has Received and Read This Report.

THIS REPORT EXPIRES FIVE YEARS FROM DATE OR UPON A MATERIAL CHANGE

April 26, 1965

SPECIAL NOTES:

1. THIS REPORT DOES NOT INCLUDE LOTS "A" IN BLOCK 'N AND LOT "A" IN BLOCK P.
2. YOUR ATTENTION IS ESPECIALLY DIRECTED TO THE PARAGRAPHS BELOW
HEADED: SEWAGE DISPOSAL AND FLOOD AND DRAINAGE.

ADDITIONAL INFORMATION FOLLOWS IN NARRATIVE FORM:

LOCATION AND SIZE: Five (5) miles east of Salyer, north of Highway 299,
west of Denny Road. Approximately 257 acres divided into 230 lots or
parcels.

TITLE: Title is subject, among other things, to:

Easements affecting certain lots for utility, drainage, pipeline,
roadway and other purposes. These easements as they affect individual
lots may be determined by an examination of the recorded map and title
report for this subdivision.

ZONING: The property is to be sold for residential purposes, except for
lots 1 thru 5 in Block D and lots 1 thru 7 in Block E which are to be
sold for commercial purposes.

As of the date of the issuance of this report, lots in this
subdivision are in the "U" (Unclassified Zoning District).

RESTRICTIONS: Restrictions, recorded in Book 112, Page 367, April
12, 1965, as Document No. 536, Official Records of the Trinity County
Recorder, affecting the development, among other restrictions, limitations,
or use, contain the following provisions:

No residence of any kind of what is commonly known as boxed or sheet
milled construction, shall be built unless the same shall be covered
over upon all its outside walls with stucco, weatherboard, brick, stone
or other veneer material.

PURCHASE MONEY HANDLING WILL BE AS FOLLOWS: All funds received from each
purchaser will be impounded in a neutral escrow depository until a release
is obtained from any blanket encumbrance applying to this subdivision
and the legal title is delivered to the purchaser. (Refer Section
11013.2(a) of the Business and Professions Code.)

NOTE: A blanket encumbrance is one which affects more than one
parcel of subdivided land; it can concern money or matters of
agreement.

FILLED GROUND: The subdivider in his application for this report states that no lots are to contain filled ground.

FLOOD AND DRAINAGE: The Trinity County Road Commissioner reports as follows:

"This subdivision lies on a high bench, well above the high water line of the Trinity River, and no flood threat exists from this stream. A small tributary stream, Hawkins Creek, passes through the subdivision from Lot 13 to Lots 48 and 57, in a deep well contained channel. This stream passes under Flame Tree Road at Lot 13 thru a 72" corrugated metal pipe; and under Hawkins Bar Road through twin 60" corrugated metal pipes in the vicinity of Lots 52, 57 and 153. While these culverts are probably adequate to carry the stream, it is recommended that no building be done where damage could occur from culvert stoppage."

WATER: Water will be supplied by the Trinity Village Water Company. This company operates under the supervision of the Public Utilities Commission.

FIRE PROTECTION: U. S. Forest Service.

ELECTRICITY: Electricity will be supplied by the Pacific Gas and Electric Company, whose facilities are presently located adjacent to the subdivision.

TELEPHONE: Telephone service will be supplied by the Western Telephone Company, whose facilities are presently located within the subdivision.

SEWAGE DISPOSAL: The use of septic tanks for sewage disposal has been approved by the Bureau of Public Health Contract Service, State Health Department. The said Department reports as follows:

"Due to the terrain and soil conditions, the location of septic tanks and leach lines should be considered prior to the construction of buildings. Varying set-backs will be required on several lots in order to enable the installation of private sewage disposal systems.

The size and construction details of the sewage system must be approved prior to construction by the Building Department of the County of Trinity.

Block A - Lot 6 is unsuitable for sewage disposal and must be sold with either Lot 5 or Lot 7.

Block B - Lots 3, 4 and 5 must be sold as one lot.

Block C - Lots 1, 2, 3 and 4 will be conveyed to one ownership.

Block E - Lots 22 and 23 must be sold as one lot.

Block N - Lots 1 and 2 must be sold as one lot.

Block O - Lot 15 must be sold with either Lot 14 or Lot 16.

Block P - Lots 7 and 8 will require special design for sewage disposal systems."

The cost of the septic tank is to be borne by the lot or unit purchaser. Prior to commencing of any construction, purchasers should contact the local County Health Department for specifications and requirements.

STREETS AND ROADS: Streets within this subdivision have been offered for dedication and have been accepted by the county for public use and maintenance.

PUBLIC TRANSPORTATION: Public transportation consists of twice a week bus service along Highway 299, approximately 1 mile from the subdivision at Hawkins Bar.

PUBLIC SCHOOL DISTRICT WHICH SERVES THIS SUBDIVISION: The elementary and high school are in the Klamath Trinity Unified School District. The elementary school is approximately 10 miles from the subdivision and the high school is located at Hoopa approximately 22 miles from the subdivision. School bus service is available to both schools.

NOTE: Purchasers should contact the local school board if they desire information regarding school facilities and bus service.

SHOPPING FACILITIES: Limited shopping facilities are approximately 1 mile from the subdivision located at Hawkins Bar and consisting of country grocery and gas station.

MFD:mrs

Harold Hunt Co.

704 NINTH STREET
P. O. BOX 66
ARCATA, CALIFORNIA

REC...ED AT REQUEST OF Matthew & Laurie
10 MIN. PAST 10 A M
APR 12 1965
TRINITY COUNTY RECORDS
RECORDED FEE 6.00 6.00 INDEXED

DECLARATION OF COVENANTS TO RUN WITH LAND COMPARED

The undersigned, TRINITY RIVER DEVELOPMENT CO., a California corporation, the owner of the real property in the County of Trinity, State of California, described on the Exhibit hereto annexed, hereby makes the following declarations as to limitations, restrictions and uses to which the lots and/or tract constituting the said sub-division designated as : "TRINITY VILLAGE SUB-DIVISION" may be put, hereby specifying that said declaration shall constitute covenants to run with all of the land, as provided by law, and shall be binding on all parties and all persons claiming under them, and for the benefit of and limitations upon all future owners in said sub-division, this declaration of restrictions being designed for the purpose of keeping said sub-division desirable, uniform and suitable as herein specified:

1. No lot shall be used except for residential purposes. No building shall be erected, altered, placed, or permitted to remain on any lot other than one detached single family dwelling not to exceed two and one half stories in height and a private garage for not more than two cars.
2. No residence of any kind of what is commonly known as boxed or sheet milled construction shall be built unless the same shall be covered over upon all its outside walls with stucco, weatherboard, brick, stone or other veneer material.
3. a) No building shall be located on any lot nearer to the front lot line or nearer to the side street line than the minimum building setback lines shown on the recorded plat. In any event no building shall be located on any lot nearer than 20 feet to the front lot line, or nearer than 10 feet to any side street line.
b) No building shall be located nearer than 10 feet to an interior lot line, except that no side yard shall be required for a garage or other

- 1 permitted accessory building located 45 feet or more from the minimum
- 2 building setback line. No dwelling shall be located on any interior lot
- 3 nearer than 15 feet to the rear lot line.
- 4
- 5 c) For the purposes of this covenant, eaves, steps and open porches
- 6 shall not be considered as a part of a building, provided, however, that
- 7 this shall not be construed to permit any portion of a building, on a lot
- 8 to encroach upon another lot.
- 9 4. No dwelling shall be erected or placed on any lot having a width of less
- 10 than 60 feet at the minimum building setback line nor shall any dwelling be
- 11 erected or placed on any lot having an area of less than 1100 square feet.
- 12
- 13 5. Easements for installation and maintenance of utilities and drainage
- 14 facilities are reserved as shown on the recorded plat and over the rear five
- 15 feet of each lot. Within these easements, no structure, planting or other
- 16 material shall be placed or permitted to remain which may damage or inter-
- 17 fere with the installation and maintenance of utilities, or which may change the
- 18 direction of flow of drainage channels in the easements, or which may obstruct
- 19 or retard the flow of water through drainage channels in the easements. The
- 20 easement area of each lot and all improvements in it shall be maintained
- 21 continuously by the owner of the lot, except for those improvements for which
- 22 a public authority or utility company is responsible.
- 23
- 24 6. No noxious or offensive activity shall be carried on upon any lot, nor
- 25 shall anything be done thereon which may be or may become an annoyance or
- 26 nuisance to the neighborhood.
- 27
- 28 7. No structure of a temporary character, trailer, basement, tent, shack,
- 29 garage, barn, or other outbuilding shall be used on any lot at any time as a
- 30 residence, either temporarily or permanently.
- 31
- 32 8. No sign of any kind shall be displayed to the public view on any lot
- except one professional sign of not more than one square foot, one sign of not
- more than five square feet advertising the property for sale or rent, or signs

1 used by a bullder to advertise the property during the construction and sales
2 period.

3
4 9. No oil drilling, oil development operations, oil refining, quarrying or
5 mining operations of any kind shall be permitted upon or in any lot, nor shall
6 oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or
7 in any lot. No derrick or other structure designed for use in boring for oil or
8 natural gas shall be erected, maintained or permitted upon any lot.

9 10. No livestock, other than for private domestic use, shall be permitted.
10 Domestic animals shall be kept in a manner that will not create a public
11 nuisance.

12
13 11. No lot shall be used or maintained as a dumping ground for rubbish,
14 trash, garbage or other waste shall not be kept except in sanitary containers.
15 All incinerators or other equipment for the storage or disposal of such material
16 shall be kept in a clean and sanitary condition.

17 12. No individual water supply system shall be permitted on any lot unless
18 such system is located, constructed and equipped in accordance with the
19 requirements standards and recommendations of Trinity County Health Depart-
20 ment. Approval of such system as installed shall be obtained from such
21 authority.

22
23 13. All lavatories and/or toilets shall be built indoors and shall be connected
24 with outside septic tank or cesspool; septic tanks or cesspools shall be so
25 constructed as to cause no leaching to the surface and shall contain a minimum
26 of 100 feet of leach line and shall be at least 20 feet from the boundary line.
27 All such septic tanks or cesspools shall be constructed in accordance with the
28 requirements, standards and recommendations of the Trinity County Health
29 Department. Approval of such systems as installed shall be obtained from the
30 Trinity County Health Department.

31 14. No fences or hedges for the purpose of dividing or enclosing property
32 shall be constructed or planted or maintained on said premises higher than six
feet, except upon lot 25 of Block C.

15. No fence, wall, hedge or shrub planting which obstructs sight lines of elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sightline limitations shall apply on any lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

16. No logging truck or heavy equipment is to be parked, maintained or garaged upon any lot.

17. The covenants and restrictions herein set forth may be modified at any time by the owners of not less than 75% in number of the lots which are being restricted.

18. No trailer house shall be kept or maintained upon any portion of the premises.

19. The restrictions and covenants herein contained shall not be applicable to and shall not apply to any existing non-conforming structures or uses for the period of five years from the date hereof.

20. No store, saloon, grocery or mercantile business shall be carried on nor any industrial activity carried on upon any lot.

21. No lot may be subdivided or partitioned into smaller lot or lots than as they appear on the final map.

22. The covenants and restrictions herein set forth are not applicable to and do not apply to lots designated as Lots 1, 2, 3, 4 and 5 of Block D and Lots 1, 2, 3, 4, 5, 6 and 7 of Block E.

That the lots designated in this paragraph are within an area in which it is contemplated that mercantile structures may be constructed and maintained.

23. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of 30 years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of 10 years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

24. Enforcement shall be by proceedings of law or in equity against any person or persons violating and/or attempting to violate any covenant either to restrain violation or to recover damages.

25. Invalidation of any one of these covenants by judgment or court order shall in no wise effect any of the other provisions which shall remain in full force and effect.

26. Nothing contained in this Declaration shall impair or defeat the lien of any mortgage or deed of trust made in good faith and for value, but title to any property subject to this Declaration obtained through sale in satisfaction of any such mortgage or deed of trust shall thereafter be held subject to all of the restrictions and provisions hereof.

IN WITNESS WHEREOF, we have hereunto set our signatures this 2nd day of APRIL, 1965.

TRINITY RIVER DEVELOPMENT CO.
a California corporation

BY De Riewerts
President

BY F. B. Mathews
Secretary

STATE OF CALIFORNIA
COUNTY OF HUMBOLDT^{ss}

On this 2nd day of April, 1965, before me, Nancy Jackson, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared Donald E. Riewerts and Francis B. Mathews, known to me to be the President and Secretary, respectively, of the corporation described in and that executed the within instrument, and also known to me to be the

1 persons who executed the within instrument on behalf of the corporation therein
2 named and they acknowledged to me that such corporation executed the same.

3 IN WITNESS WHEREOF, I have hereunto set my hand and affixed my
4 official seal the day and year in this Certificate first above written.

5
6 *Nancy Jackson*
7 Notary Public in and for the County of
Humboldt, State of California

